

Title 11

Corrections

TITLE 11. CORRECTIONS

IC 11-8-2

Chapter 2. Organization of Department

IC 11-8-2-11

Sec. 11. (a) The corrections drug abuse fund is established. The department shall administer the fund. Expenditures from the fund may be made only in accordance with appropriations made by the general assembly.

(b) The department may use money from the fund to provide drug abuse therapy for offenders.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(d) Money in the fund at the end of a fiscal year does not revert to the state general fund.

As added by P.L.51-1989, SEC.3.

IC 11-10-4

Chapter 4. Care and Treatment of Mentally Ill Offenders

IC 11-10-4-1

Sec. 1. (a) As used in this chapter, the terms used in IC 12-26 have the meanings set forth in IC 12-7-2.

(b) As used in this chapter, "qualified medical personnel" has the meaning set out in IC 11-10-3-1.

As added by Acts 1979, P.L.120, SEC.3. Amended by P.L.2-1992, SEC.103.

IC 11-10-4-2

Sec. 2. The department shall provide for the care and treatment of every confined offender who is determined to be mentally ill by a psychiatrist employed or retained by the department. To provide that care and treatment, the department may:

(1) establish and operate its own mental health facilities and programs;

(2) transfer offenders to the division of mental health, subject to the approval of the director of the division of mental health; or

(3) contract with any city, county, state, or federal authority or with other public or private organizations for the provision of care and treatment.

As added by Acts 1979, P.L.120, SEC.3. Amended by Acts 1980, P.L.87, SEC.1; P.L.2-1992, SEC.104; P.L.135-1993, SEC.2.

IC 11-10-4-3

Sec. 3. (a) A committed offender may be involuntarily transferred to the division of mental health or to a mental health facility only if:

(1) the offender has been examined by a psychiatrist employed or retained by the department and the psychiatrist reports to the department in writing that, in his opinion, the offender is mentally ill and in need of care and treatment by the division of mental health or in a mental health facility;

(2) the director of mental health approves of the transfer if the offender is to be transferred to the division of mental health; and

(3) the department affords the offender a hearing to determine the need for the transfer, which hearing must comply with the following minimum standards:

(A) The offender shall be given at least ten (10) days advance written and verbal notice of the date, time, and place of the hearing and the reason for the contemplated transfer. This notice must advise the offender of the rights enumerated in clauses (C) and (D). Notice must also be given to one (1) of the following:

(i) The offender's spouse.

(ii) The offender's parent.

(iii) The offender's attorney.

(iv) The offender's guardian.

(v) The offender's custodian.

(vi) The offender's relative.

(B) A copy of the psychiatrist's report must be given to the offender not later than at the time notice of the hearing is given.

- (C) The offender is entitled to appear in person, speak in his own behalf, call witnesses, present documentary evidence, and confront and cross-examine witnesses.
- (D) The offender is entitled to be represented by counsel or other representative.
- (E) The offender must be given a written statement of the findings of fact, the evidence relied upon, and the reasons for the action taken.
- (F) A finding that the offender is in need of mental health care and treatment in the division of mental health or a mental health facility must be based upon clear and convincing evidence.
- (b) If the official in charge of the facility or program to which the offender is assigned determines that emergency care and treatment in the division of mental health or a mental health facility is necessary to control a mentally ill offender who is either gravely disabled or dangerous, that offender may be involuntarily transferred, subject to the approval of the director of the division of mental health, before holding the hearing described in subsection (a)(3). However, this subsection does not deprive the offender of his right to a hearing.
- (c) The official in charge of the division of mental health or facility to which an offender is transferred under this section must give the offender a semiannual written report, based on a psychiatrist's examination, concerning his mental condition and the need for continued care and treatment in the division of mental health or facility. If the report states that the offender is still in need of care and treatment in the division of mental health or a mental health facility, the division of mental health or facility shall, upon request of the offender or a representative in his behalf, conduct a hearing to review the need for that continued care and treatment. The hearing must comply with the minimum standards established by subsection (a)(3). The division of mental health or facility to which the offender is transferred under this section may conduct a hearing under this subsection upon its initiative.
- (d) If the division of mental health or facility to which an offender is transferred under this section determines that the offender no longer needs care and treatment in the division of mental health or facility, the division of mental health or facility shall return the offender to the custody of the department of correction, and the department of correction shall reassign the offender to another facility or program.
- As added by Acts 1979, P.L.120, SEC.3. Amended by Acts 1980, P.L.87, SEC.2; P.L.2-1992, SEC.105.*

IC 11-10-4-4

Sec. 4. (a) An offender who believes the offender to be mentally ill and in need of care and treatment in the division of mental health or a mental health facility shall, at the offender's request for transfer, be examined by a psychiatrist employed or retained by the department of correction, who shall report the psychiatrist's findings to the department of correction. If the report states that the offender is mentally ill and in need of care and treatment in the division of mental health or a mental health facility, the department of correction shall transfer the offender to the division of mental health, subject to the approval of the director of the division of mental health, or to a mental health facility. If the department of correction intends to transfer an offender to the division of mental health, the department of correction shall transmit a copy of the psychiatrist's report to the division of mental health.

(b) Section 3(c) and 3(d) of this chapter apply to transfers under this section.

As added by Acts 1979, P.L.120, SEC.3. Amended by Acts 1980, P.L.87, SEC.3; P.L.2-1992, SEC.106.

IC 11-10-4-5

Sec. 5. A transfer under this chapter does not extend an offender's term of imprisonment or commitment. However, if it is determined that an offender transferred under this chapter will be in need of mental health care and treatment after the offender's term of imprisonment or commitment ends, the division of mental health or facility to which the offender was transferred may institute commitment proceedings under IC 12-26.

As added by Acts 1979, P.L.120, SEC.3. Amended by P.L.2-1992, SEC.107.

IC 11-10-4-6

Sec. 6. The administration of a drug by the department for the purpose of controlling a mental or emotional disorder is subject to the following requirements:

- (1) The particular drug must be prescribed by a physician who has examined the offender.
- (2) The drug must be administered by either a physician or qualified medical personnel under the direct supervision of a physician.
- (3) The offender must be periodically observed, during the duration of the drug's effect, by qualified medical personnel.
- (4) A drug may be administered for a period longer than seventy-two (72) hours only if the administration

is part of a psychotherapeutic program of treatment prescribed and detailed in writing by a physician.

As added by Acts 1979, P.L.120, SEC.3.

IC 11-10-4-7

Sec. 7. The department may adopt, under IC 4-22-2, rules to implement this chapter.

As added by Acts 1979, P.L.120, SEC.3.

IC 11-10-4-8

Sec. 8. Whenever an offender sentenced under IC 35-36-2-5 is committed to the department of correction, the department of correction shall immediately inform the division of mental health of the commitment and provide the division of mental health with a copy of

the evaluation made by the department of correction under IC 11-10-1-2.

As added by P.L.127-1985, SEC.1. Amended by P.L.2-1992, SEC.108.

IC 11-12

ARTICLE 12. COMMUNITY CORRECTIONS

IC 11-12-1-2.5

Community corrections programs; coordination of other programs

Sec. 2.5. (a) The community corrections programs described in section 2 of this chapter may include the following:

- (1) Residential or work release programs.
- (2) House arrest, home detention, and electronic monitoring programs.
- (3) Community restitution or service programs.
- (4) Victim-offender reconciliation programs.
- (5) Jail services programs.
- (6) Jail work crews.
- (7) Community work crews.
- (8) Juvenile detention alternative programs.
- (9) Day reporting programs.
- (10) Faith based programs.
- (11) Other community corrections programs approved by the department.

(b) The community corrections board may also coordinate and operate educational, mental health, drug or alcohol abuse counseling, housing, as a part of any of these programs, or supervision services for persons described in section 2 of this chapter.

As added by P.L.240-1991(ss2), SEC.59. Amended by P.L.104-1997, SEC.2; P.L.32-2000, SEC.4; P.L.224-2003, SEC.122.

IC 11-12-2-3

Community corrections advisory board; duties

Sec. 3. (a) A community corrections advisory board shall:

(1) formulate:

(A) the community corrections plan and the application for financial aid required by section 4 of this chapter; and

(B) the forensic diversion program plan under IC 11-12-3.5-2.

(2) observe and coordinate community corrections programs in the county;

(3) make an annual report to the county fiscal body, county executive, or, in a county having a consolidated city, the city-county council, containing an evaluation of the effectiveness of programs receiving financial aid under this chapter and recommendations for improvement, modification, or discontinuance of these programs;

(4) ensure that programs receiving financial aid under this chapter comply with the standards adopted by the department under section 5 of this chapter; and

(5) recommend to the county executive or, in a county having a consolidated city, to the city-county council, the approval or disapproval of contracts with units of local government or nongovernmental agencies that desire to participate in the community corrections plan.

Before recommending approval of a contract, the advisory board must determine that a program is capable of meeting the standards adopted by the department under section 5 of this chapter.

(b) A community corrections advisory board shall do the following:

- (1) Adopt bylaws for the conduct of its own business.
 - (2) Hold a regular meeting at least one (1) time every three (3) months and at other times as needed to conduct all necessary business. Dates of regular meetings shall be established at the first meeting of each year.
 - (3) Comply with the public meeting and notice requirements under IC 5-14-1.5.
 - (c) A community corrections advisory board may contain an office as designated by the county executive or, in a county having a consolidated city, by the city-county council.
- As added by Acts 1979, P.L.120, SEC.5. Amended by P.L.240-1991(ss2), SEC.62; P.L.224-2003, SEC.123.*

IC 11-12-3.5

Chapter 3.5. Forensic Diversion Program

IC 11-12-3.5-1

"Forensic diversion program"

Sec. 1. As used in this chapter, "forensic diversion program" means a program developed to ensure that an adult with a mental illness or an addictive disorder who has been convicted of a crime receives adequate community based treatment or other services instead of incarceration. An adult with a mental illness or an addictive disorder who has been convicted of a crime may participate in a forensic diversion program following the sentencing hearing, if the adult is:

- (1) participating in a community corrections program;
- (2) participating in a community transition program; or
- (3) on probation.

As added by P.L.224-2003, SEC.124.

IC 11-12-3.5-2

Community corrections advisory board; duties

Sec. 2. The community corrections advisory board shall develop a forensic diversion program plan to do the following:

- (1) Establish and provide procedures for the early identification of serious mental or addictive disorders among detainees, including initial intake and assessment programs for individuals who are arrested.
- (2) Permit an individual who is not charged with a crime involving serious bodily injury to participate in an arraignment or postarraignment diversion program.
- (3) Provide a program of community based services for an individual eligible for deferred prosecution under IC 33-14-1-7 or IC 12-23-5-7.
- (4) Permit an individual participating in a forensic diversion program to discontinue participation sixty (60) days after the individual's primary caregiver, physician, or counselor has released the individual from all care except for basic monitoring.

As added by P.L.224-2003, SEC.124.

IC 11-12-3.5-3

Funds

Sec. 3. The department may provide funds for forensic diversion programs for those offenders who were diverted from a mandatory period of incarceration from the department.

As added by P.L.224-2003, SEC.124.